

Notice of Allowability

Application No.

09/810,891

Examiner

Andre Boyce

Applicant(s)

BORDERS ET AL.

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment filed May 11, 2006.
2. ☒ The allowed claim(s) is/are 1,2,7,8,10,11,21,24,25 and 27-38.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/13/06, 5/11/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Romain Jeanty
Primary Examiner
Art Unit 3623

DETAILED ACTION

1. The following is in response to Applicant's amendment filed May 11, 2006.
Claims 1, 10, 11 and 36 have been amended. Claim 9 has been canceled. Claims 37 and 38 have been added. Claims 1, 2, 7, 8, 10, 11, 21, 24, 25 and 27-38 are pending.
2. The previously pending objection to claim 10 has been withdrawn.

Examiner's Amendment

3. An Examiner's Amendment to the record appears below. Should changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
4. Authorization for this Examiner's Amendment was given in a telephone interview with Peter Tong on July 21, 2006. The application has been amended as follows:

In the claims:

1. (Currently amended) A computer-implemented method for scheduling delivery of products, comprising:
receiving a piece of information regarding a customer;

Art Unit: 3623

displaying a plurality of available delivery windows to the customer based on the piece of information regarding the customer;

receiving from the customer a selection of a delivery window from the plurality of available delivery windows to fulfill an order for the customer; and

identifying a route from a plurality of routes to deliver the order based on the selected delivery window,

wherein the method further comprises

associating a customer value with each of a plurality of customers based on information in customer order data;

dividing the plurality of customers into at least two customer groups, each customer group corresponding to a range of customer values, each customer being assigned to one of the plurality of customer groups according to the associated customer value; and

determining an actual capacity allocation distribution among the plurality of customer groups based on information in the customer order data so as to adjust at least the range of customer values associated with one customer group, wherein at least one of the windows available for the customer to select depends on the customer group to which the customer is assigned and the adjusted range of customer values,

wherein ~~products in the order could be~~ at least one product is held in inventory in anticipation of customer demand, and

wherein the method is implemented by one or more computing devices.

36. (Currently Amended) A computer-implemented method for scheduling delivery of products, comprising:

receiving a piece of information regarding a customer;

displaying a plurality of available delivery windows to the customer based on the piece of information regarding the customer;

receiving from the customer a selection of a delivery window from the plurality of available delivery windows to fulfill an order for the customer; and

identifying a route from a plurality of routes to deliver the order based on the selected delivery window,

wherein at least one of the windows available for the customer to select depends on assigning the customer to one of a plurality of customer groups based on a value of the customer, each customer group corresponding to customers within a range of values, with at least one of the ranges of values determined based on customer order data,

wherein ~~products in the order could be~~ at least one product is held in inventory in anticipation of customer demand, and

wherein the method is implemented by one or more computing devices.

Reasons for Allowance

5. Claims 1, 2, 7, 8, 10, 11, 21, 24, 25 and 27-38 are allowed.

6. The following is an examiner's statement of reasons for allowance:

With respect to independent claim 1, none of the prior art of record, taken individually or in any combination, teach inter alia, associating a customer value with

Art Unit: 3623

each of a plurality of customers based on information in customer order data; dividing the plurality of customers into at least two customer groups, each customer group corresponding to a range of customer values, each customer being assigned to one of the plurality of customer groups according to the associated customer value; and determining an actual capacity allocation distribution among the plurality of customer groups based on information in the customer order data so as to adjust at least the range of customer values associated with one customer group, wherein at least one of the windows available for the customer to select depends on the customer group to which the customer is assigned and the adjusted range of customer values.

With respect to independent claim 36, none of the prior art of record, taken individually or in any combination, teach inter alia, wherein at least one of the windows available for the customer to select depends on assigning the customer to one of a plurality of customer groups based on a value of the customer, each customer group corresponding to customers within a range of values, with at least one of the ranges of values determined based on customer order data.

7. The prior art references most closely resembling Applicant's claimed invention are Florence (US 2002/0007299), Chen et al (USPN 6,741,995), and Dietrich et al (USPN 6,526,392).

Florence discloses providing a plurality of time windows that overlap from which a recipient may choose a time for delivery of an item, including applying predetermined parameters to the time windows to determine which time windows to offer to the

recipients as available times. In addition, Florence discloses an Internet webpage for online interactive communications for offering items for sale to the user and for receiving delivery requests from the user. However, with respect to claim 1, Florence does not disclose associating a customer value with each of a plurality of customers based on information in customer order data; dividing the plurality of customers into at least two customer groups, each customer group corresponding to a range of customer values, each customer being assigned to one of the plurality of customer groups according to the associated customer value; and determining an actual capacity allocation distribution among the plurality of customer groups based on information in the customer order data so as to adjust at least the range of customer values associated with one customer group, wherein at least one of the windows available for the customer to select depends on the customer group to which the customer is assigned and the adjusted range of customer values. With respect to claim 36, Florence does not disclose wherein at least one of the windows available for the customer to select depends on assigning the customer to one of a plurality of customer groups based on a value of the customer, each customer group corresponding to customers within a range of values, with at least one of the ranges of values determined based on customer order data.

Chen et al disclose segmentation of the customers based upon certain attributes, including customers by percentile to a particular segment code and segmentation of customers into a plurality of groups based upon certain attributes. However, with respect to claim 1, Chen et al does not disclose associating a customer value with

each of a plurality of customers based on information in customer order data; dividing the plurality of customers into at least two customer groups, each customer group corresponding to a range of customer values, each customer being assigned to one of the plurality of customer groups according to the associated customer value; and determining an actual capacity allocation distribution among the plurality of customer groups based on information in the customer order data so as to adjust at least the range of customer values associated with one customer group, wherein at least one of the windows available for the customer to select depends on the customer group to which the customer is assigned and the adjusted range of customer values. With respect to claim 36, Chen et al does not disclose wherein at least one of the windows available for the customer to select depends on assigning the customer to one of a plurality of customer groups based on a value of the customer, each customer group corresponding to customers within a range of values, with at least one of the ranges of values determined based on customer order data.

Dietrich et al disclose the use of customer and baseline profiles with a service network model, including shipment of goods to a customer, wherein the data is analyzed to create customer profiles describing customer service activity and evaluate the incremental cost and resource allocation (i.e., range) of adding new customer to the service network, in order to determine the correct price range. Further, Dietrich discloses a suitable shipping profile presented to the customer, based upon customer data. However, with respect to claim 1, Dietrich et al does not disclose associating a customer value with each of a plurality of customers based on information in customer

order data; dividing the plurality of customers into at least two customer groups, each customer group corresponding to a range of customer values, each customer being assigned to one of the plurality of customer groups according to the associated customer value; and determining an actual capacity allocation distribution among the plurality of customer groups based on information in the customer order data so as to adjust at least the range of customer values associated with one customer group, wherein at least one of the windows available for the customer to select depends on the customer group to which the customer is assigned and the adjusted range of customer values. With respect to claim 36, Dietrich et al does not disclose wherein at least one of the windows available for the customer to select depends on assigning the customer to one of a plurality of customer groups based on a value of the customer, each customer group corresponding to customers within a range of values, with at least one of the ranges of values determined based on customer order data.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3623

-Publicover (US 2004/0236635) discloses distribution of items to individuals via order placement.

-Shavit et al (USPN 4799156) disclose interactive online electronic communications and processing of business transactions.

-Hyten (Stop & Shop Mulls Online Grocery Service) discloses that Stop & Shop is considering offering online shopping.

-Wren (Cyber Supermarket Albertson's Expects Online Grocery Shopping to Boom) discloses online food shopping.


-Pearce (From Carts to Clicks) discloses internet grocery shopping.

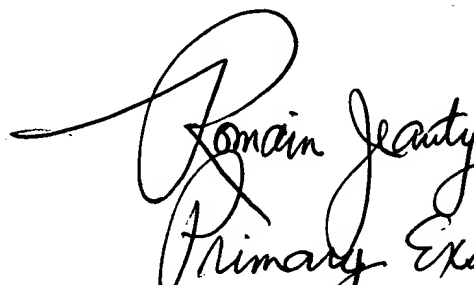
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


adb
July 23, 2006


Romain Jasty
Primary Examiner
Art Unit 3623